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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD (PARTIAL)* OF THE 1st MEETING

Held at the Palais Wilson, Geneva,
on Monday, 23 April 2001, at 10 a.m.

Temporary Chairperson: Mr. RAMCHARAN (United Nations Deputy High Commissioner for Human Rights)

Chairperson: Mrs. BONOAN-DANDAN

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.15 a.m.

OPENING OF THE SESSION (item 1 of the provisional agenda)

1. In accordance with rule 13 of the Committee's rules of procedure, the members who had been re-elected or newly elected - Ms. BARAHONA-REIRA, Mr. CEAUSU, Mr. GRISSA, Mr. MALINVERNI, Mr. MARTYNOV, Mr. SADI and Mr. TEXIER - solemnly declared that they would perform their duties as members of the Committee impartially and conscientiously.

STATEMENT BY THE UNITED NATIONS DEPUTY HIGH COMMISSIONER FOR HUMAN RIGHTS

2. The TEMPORARY CHAIRPERSON, speaking as United Nations Deputy High Commissioner for Human Rights, said that the High Commissioner for Human Rights, Mrs. Robinson, would speak later that day to the Security Council in New York, where she would make a strong plea for human rights considerations to become part of the normal conduct of Security Council business. On her behalf, he welcomed Committee members to the current session and thanked the other representatives present, including those from non-governmental organizations (NGOs) for their devotion to and persistence in the implementation of economic, social and cultural rights.

3. It was one of the great achievements of the United Nations that the Universal Declaration of Human Rights combined different national experiences in order to spell out a concept of human rights that embraced civil and political rights together with economic, social and cultural rights in a relationship of interdependence and indivisibility. The strands of economic, social and cultural rights were to be found in the revolutionary movements that had provided the great declarations of human rights, for example during the French and American Revolutions. On the twenty-fifth anniversary of the entry into force of the International Covenant on Economic, Social and Cultural Rights, it was necessary to take stock of the intellectual underpinnings of those rights and to establish a sense of their future direction.

4. The drafters of the Universal Declaration of Human Rights had been moved by a conviction that, if human beings were to develop and flourish in freedom, economic, social and cultural rights must be protected alongside civil and political rights. They had taken close account of the Four Freedoms of President Roosevelt, the case for which had been made at the closing session of the San Francisco Conference where the Charter of the United Nations had been born, and where it had been made clear that the United Nations must do something for the poor and disadvantaged in the world.

5. With a new century just beginning, implementation of economic, social and cultural rights was a matter of decency, principle and strategy. Firstly, as a matter of decency, special efforts should be made to provide adequate food for every person on the planet. In that connection, Senator George McGovern had argued for a universal free lunch programme for every child as well as special protection for mothers and infants. Similar ideas had been put forward in the Commission on Human Rights by its Special Rapporteur on the right to food. As a matter of principle, the plight of the poor should be addressed nationally, regionally and internationally. None of the human rights treaties, not even the Declaration on the Right to

Development, made explicit reference to "poverty". As a result, poverty had been defined only obliquely by reference to the right to an adequate standard of living. From a strategic point of view, the implementation of economic, social and cultural rights was fundamental. In simple terms, human rights could not be expected to triumph universally in a world of increasing poverty.

6. At the same time, without democracy, the rule of law and the implementation of civil and political rights, it was hardly realistic to expect economic, social and cultural rights to be realized. Growth and prosperity blossomed in conditions of respect for the rule of law and of civil and political rights. The implementation of all human rights should therefore proceed in tandem.

7. Historically, the international community had laid emphasis on the elaboration of norms, their legal acceptance at national level, dialogue and international cooperation, reporting systems, petitions and complaints procedures, technical assistance, and promotion and protection activities in general. The process had been pioneered by the International Labour Organization (ILO) and had been faithfully implemented by the United Nations and treaty bodies, including the Committee. However, the deliberations of bodies such as the General Assembly and the Commission on Human Rights had given rise to a growing concern that the approaches and methods applied to date might not be delivering the intended results. The independent study lately prepared by Professor Anne Bayefsky offered a variety of recommendations for improving the effectiveness of treaty bodies. Given the strategic role of economic, social and cultural rights, the Committee should consider the results of the study carefully so as to take the necessary corrective measures.

8. The International Covenant on Economic, Social and Cultural Rights required States parties to take immediately such measures as they could to give effect to the rights in the Covenant, for example by combating discrimination in the enjoyment of economic, social and cultural rights. A progressive feature of the Covenant was the duty to strive for the full realization of the rights enshrined therein. States parties were required to deploy their best efforts at national level and, in case of need, to reach out to the international community for cooperation under the aegis of the Economic and Social Council.

9. When the Covenant had come into force and the Economic and Social Council had laid down the initial implementation arrangements, that was the blueprint the Council had had in mind. Unfortunately, the Council's sessional working group established to consider reports had not made much headway and had been replaced by the Committee, which had sought to make progress with the reporting system, the development of general comments, the promotion of benchmarks, interaction with other agencies and the advocacy of an optional protocol for individual petitions. All those were indispensable building blocks for the future in regard to the implementation of economic, social and cultural rights.

10. Certain difficult questions remained to be addressed. What evidence was there of the efficacy of the reporting process at national level? To what extent could it be said that general comments were being taken to heart by countries and partner organizations? What evidence existed that interaction with agencies had led to the pursuit of concrete strategies for the implementation of economic, social and cultural rights?

11. There were thus probing questions to be asked about how business had been conducted in the past and the future direction to be followed. Firstly, in the light of 25 years' experience, the Committee should assess the extent to which national strategies existed for the implementation of economic, social and cultural rights, and what impact the Covenant had on such strategies. Surely the key to the application of the Covenant was the extent to which it contributed to those strategies. Similarly, the Committee should endeavour to assess the extent to which the obligation to prevent discrimination in the enjoyment of economic, social and cultural rights was being carried out in practice. It was fundamental to act against discrimination in access to food, health services, education and shelter. Thirdly, it was appropriate to evaluate the impact of the Covenant on international development policies and strategies as well as on efforts for peace-building on a day-to-day basis. It was hardly conceivable that a strategy of integrating human rights in development could exist without its being founded on the Covenant. The day of general discussion to be held with international development and financial agencies at the beginning of the third week of the Committee's current session would allow it to tackle that question.

12. Further, to what extent could it be said that regional and subregional organizations, particularly those in the economic and development sectors, were aware of the Covenant and seeking to foster its implementation? With regard to international cooperation, for a quarter of a century the Economic and Social Council had been entrusted with supervising the implementation of the Covenant. What had been the Council's policies in that regard and was it demonstrating awareness of the Covenant in its efforts to promote development and international economic cooperation? What had been and what should be the role of civil society and NGOs in the implementation of economic, social and cultural rights? How could partnerships be intensified and extended in that field? As to whether economic, social and cultural rights were influencing emerging security concepts, in her address to the Security Council the High Commissioner would refer to the fact that it had adopted a distinctly more people-oriented approach to security issues.

13. It was also important to consider how the Covenant was influencing the deliberations of major international conferences such as the forthcoming Third United Nations Conference on the Least Developed Countries. The letter written by the Committee's Chairperson to the Chairperson of the Preparatory Committee for the Conference, identifying the links between implementation of the provisions of the Covenant and poverty eradication as a means to development, was to be welcomed. In similar vein, what should be the place of the Covenant in the evolving world architecture at a time of rapid transformation and globalization? In that connection, and with reference to the ongoing debate on the issues of globalization, poverty and indebtedness, he noted that in the Charter of the United Nations peace was predicated upon economic and social progress and respect for human rights.

14. With regard to specific population groups, what was the relevance of the Covenant to children, women, minorities, migrants and indigenous populations? In relation to best practices, how was it possible to contribute to the formation and dissemination of such practices in the implementation of economic, social and cultural rights? Again, how could the Committee contribute to the collection of national, regional and international case law on the implementation of economic, social and cultural rights, or to the development of international responses to situations involving a consistent pattern of gross violations of economic, social and cultural

rights? In 1975, the Commission on Human Rights had adopted a decision to pay greater attention to violations of those rights, which had never been put into effect. Recently the Food and Agriculture Organization (FAO) had warned that nearly 30 million people faced food shortages in Sub-Saharan Africa. Surely the Covenant and a rights-based approach were relevant to such humanitarian emergencies?

15. In 1976, when the Committee had been set up, the United Nations Secretary-General, in addressing the Economic and Social Council, had suggested a sequence of reporting for when the Covenant came into force. In the light of the answers to the preceding questions, how was the reporting system to evolve in the future?

16. In discussing the idea of justice, the American philosopher Mortimer Adler had concluded that in the sphere of political institutions, the most just form of government was a republic with universal suffrage and with a Constitution that included a bill of economic as well as political rights securing the natural rights of all. The supreme justice of a constitutional democracy resided in its distribution of political liberty and political equality to all. In the sphere of economic arrangements, the most just economy was that which provided all individuals and families with equal participation in general economic welfare, at least to the extent that all had the degree of wealth necessary for a decent human life. No one was left destitute by being deprived of that minimum sufficiency. Above that baseline, additional justice was done by a distribution of wealth that was fair because it provided some people with more and some with less in proportion to the contribution they made to the production of wealth.

17. Those ideas highlighted the view that society had the duty to provide for those members who could not provide for themselves.

ELECTION OF OFFICERS (item 2 of the provisional agenda)

18. The TEMPORARY CHAIRPERSON invited the Committee to elect a Chairperson, three Vice-Chairpersons and a Rapporteur from among its members in accordance with rule 14 of its rules of procedure.

19. Mr. SADI nominated Mrs. Bonoan-Dandan for the post of Chairperson.

20. Mrs. Bonoan-Dandan was elected Chairperson by acclamation.

21. Mrs. Bonoan-Dandan took the Chair.

22. Mr. AHMED nominated Mr. Atangana for the post of Vice-Chairperson for the African region.

23. Mr. KOUZNETSOV nominated Mr. Ceausu for the post of Vice-Chairperson for Eastern Europe.

24. Mr. Atangana and Mr. Ceausu were elected Vic-Chairpersons by acclamation.

25. The CHAIRPERSON proposed that the election of the Vice-Chairperson for Latin America should be postponed, since not all members from that region were present.

26. It was so decided.

27. Mr. AHMED nominated Mr. Hunt for the post of Rapporteur.

28. Mr. Hunt was elected Rapporteur.

ADOPTION OF THE AGENDA (item 3 of the provisional agenda) (E/C.12/2001/1)

29. The agenda was adopted.

ORGANIZATION OF WORK (agenda item 4) (E/C.12/2001/L.1)

30. The draft programme of work, contained in document E/C.12/2001/L.1, was adopted.

31. Mr. TEXIER confirmed that he was willing to act as Country Rapporteur for Venezuela.

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 5)

32. Ms. DAY (Observer for the Women's Economic Equality Project), thanked the Committee for its important contributions to the advancement of women's economic, social and cultural rights and requested the Committee to adopt a General Comment on article 3 of the International Covenant on Economic, Social and Cultural Rights.

33. The Women's Economic Equality Project was a new human rights initiative supported by three non-governmental organizations: the National Association of Women and the Law of Canada, the Centre for Economic and Social Rights, and the Centre on Housing Rights and Evictions. The Project had two interlinked goals: to improve understanding, recognition and implementation of women's right to equality, as a right that encompassed economic, social and cultural rights as well as civil and political rights; and to infuse the understanding of economic, social and cultural rights with a women's perspective.

34. The Project's first consultation, held in Cape Town in December 2000, had been attended by 30 women leaders in the economic and social rights movement. Discussions had focused inter alia on the contribution that the adoption by the Committee of a General Comment on article 3 of the Covenant could make to advancing the understanding of women's equality and women's social and economic rights.

35. It was an important moment to raise the profile of women's social and economic rights and to increase understanding of what constituted a violation. Despite 50 years of human rights commitments to women's equality, women of all ages, in all countries of the world, continued to experience gender inequality and violations of their economic, social and cultural rights inside and outside the home.

36. Economic inequality included a range of conditions from utter destitution to the overall inequality of women's share of wealth, property, income and resources. Women made up 70 per cent of the world's poor and owned 1 per cent of the world's wealth. In every country of the world, women were poorer than men, and their poverty and economic inequality affected every aspect of their lives. Women's economic inequality was closely linked to their sexual exploitation and to their lack of political power. As long as women as a group did not have an equal share of the world's economic resources, they would not have an equal say in shaping the world's future. There was growing evidence that the standardized global economic agenda, which encouraged diminishing the size of Governments, cutting social programmes, privatizing public services and deregulating markets, was having a negative impact on the economic and social conditions of women. In fact, women's inequality was deepening, as evidenced by their increasing poverty and the proliferation of sweatshops and other forms of economic exploitation including trafficking in women. On a global level, economic policy was being treated as if it were unrelated to women's human rights.

37. Women around the world had formed networks and coalitions to educate the public and give greater exposure to women's problems. The international women's movement had been successful in gaining recognition of women's human rights, but at a cost. Until recently, violations of human rights had been male-defined and precedence had been given to civil and political rights. In order to break into the human rights framework, women had therefore highlighted that part of their experience that best fitted the traditional paradigm of a human rights violation, namely their experience of violence. As a result, mirroring the pattern within the human rights movement overall, women's civil and political rights had eclipsed their economic and social rights, even though abuses of economic, social and cultural rights lay behind women's growing inequality and were closely linked to every other violation of human rights experienced by women. The need to emphasize women's civil and political rights had led to a poorer understanding of women's right to equality, stripped of economic and social dimensions.

38. Although the economic and social rights movement had been successful in putting specific rights on the human rights agenda, it had failed to consider the particularity of women's experience and to incorporate a gender perspective into the interpretation and treatment of those rights. The movement was facing problems which the Committee could help to tackle. Firstly, gender-neutral treatment of economic, social and cultural rights did not advance women's equality. Programmes designed to improve economic and social conditions often worked best for men because they did not consider or account for the gender character of poverty. Women were poorer than men in every society, and their persistent poverty and economic inequality were caused by a number of interlinked factors including the social assignment to women of the unpaid role of caregiver and nurturer for children, men and old people; the fact that in the paid labour force women performed the majority of the work in the caring occupations, which was usually lower paid than "men's work"; the lack of affordable, safe child care; the entrenched devaluation of the labour of minority women, including indigenous women, migrant workers, women in the informal sector and women with disabilities; the economic penalties incurred by women unattached to men or alone with children; and laws, policies and traditions which treated women as adjuncts to men and denied them independent entitlement to credit and loans, and to own, rent or inherit land, property and housing.

39. Secondly, the right to equality had been interpreted traditionally as a civil and political right which could not encompass the economic and social rights dimension of women's equality, and as a right whose paradigm was gender-neutral. That version was out of date and incapable of addressing and remedying the real material inequality of women.

40. Thirdly, economic policy and human rights commitments were too often treated as unrelated matters by national Governments and international financial institutions.

41. The adoption by the Committee of a General Comment on article 3 could foster a gender-sensitive understanding of the rights contained in the International Covenant on Economic, Social and Cultural Rights, bring to the attention of States parties the gender-biased character of poverty and the often harmful impacts of apparently gender-neutral economic and social policies on women, and encourage States parties to measure, analyse and report on women's conditions with respect to the enjoyment of their economic, social and cultural rights, thus enhancing understanding among States parties of the nature of their obligations to women.

42. The Committee was well placed to foster a substantive understanding of the right to equality, guaranteed to women in both covenants and advocated by the Committee on the Elimination of Discrimination against Women, ensure that equality for women was understood to require the full implementation of their economic, social and cultural rights, and give women a tool with which to advance their equality and enjoyment of their economic, social and cultural rights. The Women's Economic Equality Project looked forward to further consultation with the Committee and to providing support to its crucial work.

43. Mr. SINGH (United Nations Educational, Scientific and Cultural Organization (UNESCO)) said that UNESCO greatly appreciated the Committee's interest in its work on cultural rights and was gratified that the Chairperson had accepted the invitation to take part in an exchange of experience with members of UNESCO's Committee on Conventions and Recommendations, a subsidiary organ of the Executive Board whose mandate was to monitor the implementation of UNESCO's Conventions in much the same way as the Committee on Economic, Social and Cultural Rights monitored implementation of the International Covenant on Economic, Social and Cultural Rights.

44. Drawing the Committee's attention to some of UNESCO's recent activities relating to cultural rights, he reported that UNESCO had been represented on 10 April 2001 at the Parallel Panel on Racism, Children and the Role of Education, which had been jointly sponsored by the Office of the High Commissioner for Human Rights and UNICEF. UNESCO's normative action in the field of education, notably the implementation in Member States of the Convention against Discrimination in Education (1960) and the Declaration on Race and Racial Prejudice (1978), with their focus on education, were a response to those initiatives.

45. The nexus between the promotion of the right to education and cultural rights had been highlighted by an international colloquium held in Italy by INTERCENTER in collaboration with UNESCO. As a result of the colloquium, a co-publication entitled "The Right to Education of Vulnerable Groups whilst Respecting their Cultural Identity", which also dealt with

conceptual issues, had just been published. With regard to cultural rights, he noted that the French version of UNESCO's publication "Cultural Rights and Wrongs" had recently appeared. UNESCO had recently organized a round table of ministers of culture on the crucially important question of cultural diversity. In order to defend cultural rights, UNESCO considered it important to define universal norms and principles with a view to possibly drawing up a declaration on cultural diversity.

46. The possible creation of a coherent system of reporting on and monitoring the right to education, which was mooted in UNESCO Resolution 30 C/Res.15, was a complex question requiring critical reflection. Meanwhile, UNESCO was in favour of placing the forthcoming seventh consultation on the implementation of its Convention against Discrimination in Education on a broad base, in collaboration with the Committee and the Office of the High Commissioner for Human Rights, so as to involve international organizations, professional bodies, networks and associations, to whom a questionnaire coupled with guidelines could be addressed. UNESCO would share the information thus obtained with the Committee as part of the regular exchange of information on the right to education. He was submitting to the Secretariat of the Committee some brief information on some of the countries whose national reports would be examined by the Committee during the current session, together with the relevant country reports on the Education for All 2000 Assessment which would be presented to the World Education Forum in Dakar.

47. He expressed his gratitude to Professor Paul Hunt, Rapporteur of the Committee, and Mrs. Arambulo, representative of the High Commissioner for Human Rights, for their valuable contribution to the Informal Expert Consultation on Monitoring the Right to Education, held at UNESCO Headquarters on 23 March 2001, at which many of those issues had been discussed and the strategy examined for more effective implementation of the right to education and cooperation with the United Nations in keeping with UNESCO Resolution 30 C/Res.15. The meeting had represented an encouraging stepping up of the regular exchange of experience and ideas on the right to education between UNESCO, the Committee on Economic, Social and Cultural Rights and the United Nations Office of the High Commissioner for Human Rights, and served to underline the special significance of the dialogue and collaboration between UNESCO and the Committee, which could be enlarged to include the United Nations Development Prog mme (UNDP). It had been suggested that a working group on the right to education, reporting to both bodies, should be set up in recognition of the common objectives of the Committee and UNESCO in promoting the realization of the right to education.

48. The Consultation had concluded that the constitutional and legal bases of the Dakar Framework for Action - which in effect called upon Member States to formulate national action plans - and the way the Framework related to other international instruments should be analysed with a view to strengthening its implementation. UNESCO was forging education for all (EFA) partnerships, coordinating the EFA global initiative and assisting Member States as appropriate to develop EFA national action plans setting out clear strategies for overcoming the special problems facing those people currently excluded from educational opportunities, with a clear commitment to girls' education and gender equity.

49. An expert meeting on the Dakar Follow-up Global Initiative organized by UNESCO at its Headquarters from 28 February to 1 March 2001 had given further impetus to inter-agency cooperation, and on the first anniversary of the World Education Forum a campaign would be launched to raise awareness of the objectives of the Dakar Framework for Action, which reinforced the nature and scope of the State obligation to provide basic education for all, as acknowledged in General Comment No. 13 on the Right to Education.

50. The CHAIRPERSON thanked UNESCO for its initiative to take part in an exchange of views. UNESCO and the Committee were currently engaged in a fruitful partnership.

51. Mr. HUNT (Rapporteur) welcomed UNESCO's historic invitation to the Committee's Chairperson and hoped that the talks would be an opportunity to work towards a General Comment on article 3, which was so badly needed. He thanked Ms. Day and her civil-society colleagues for their indispensable assistance in a very important issue.

52. The CHAIRPERSON extended a warm welcome to the new members of the Committee.

The public part of the meeting rose at 11.45 a.m.